

Kenneth A. Gallo (*pro hac vice*)
Paul D. Brachman (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K Street, NW
Washington, DC 20006-1047
Telephone: (202) 223-7300
Facsimile: (202) 223-7420
Email: kgallo@paulweiss.com
Email: pbrachman@paulweiss.com

William B. Michael (*pro hac vice*)
Crystal L. Parker (*pro hac vice*)
Daniel A. Crane (*pro hac vice*)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
Email: wmichael@paulweiss.com
Email: cparker@paulweiss.com
Email: dcrane@paulweiss.com

Joshua Hill Jr. (SBN 250842)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: (628) 432-5100
Facsimile: (628) 232-3101
Email: jhill@paulweiss.com

Attorneys for Defendant Intuitive Surgical, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff,

v.

INTUITIVE SURGICAL, INC.,
Defendant.

Case No. 3:21-cv-03496-AMO

**DECLARATION OF PAUL D.
BRACHMAN IN SUPPORT OF
DEFENDANT'S TRIAL BRIEF**

The Honorable Araceli Martínez-Olguín

1 I, PAUL D. BRACHMAN, declare as follows:

2 1. I am an attorney licensed to practice in New York and the District of Columbia,
3 and am admitted *pro hac vice* to practice before this Court. I am a partner with the law firm of
4 Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), counsel for Intuitive Surgical,
5 Inc. (“Intuitive”) in this matter. I have personal knowledge of the facts set forth herein, and if
6 called to testify, I could and would testify competently hereto.

7 2. Attached to this declaration as **Exhibit 1** is a true and correct copy of a Master
8 Sales, License, and Service Agreement between Intuitive Surgical and Northwestern Memorial
9 Healthcare dated December 16, 2019 and produced at Intuitive-01862315-29.

10 3. Attached to this declaration as **Exhibit 2** is a true and correct copy of a letter
11 dated August 28, 2018 and produced at Restore-00086086-92.

12 4. Attached to this declaration as **Exhibit 3** is a true and correct copy of a letter
13 dated November 15, 2018 and produced at Intuitive-00478439-44.

14 5. Attached to this declaration as **Exhibit 4** is a true and correct copy of a letter
15 dated February 12, 2019 and produced at Restore-00025577-84.

16 6. Attached to this declaration as **Exhibit 5** is a true and correct copy of a letter
17 dated April 16, 2019 and produced at REBOTIX145274-79.

18 7. Attached to this declaration as **Exhibit 6** is a true and correct copy of the “Da
19 Vinci Instruments” webpage on the Intuitive website. The webpage is available at
20 <https://www.intuitive.com/en-us/products-and-services/da-vinci/instruments>.

21 8. Attached to this declaration as **Exhibit 7** is a true and correct copy of the Final
22 Pretrial Order in *Restore Robotics, LLC v. Intuitive Surgical, Inc.*, No. 19-cv-00055 (N.D. Fla.),
23 Dkt. 223, dated January 17, 2023.

24 9. Attached to this declaration as **Exhibit 8** is a true and correct copy of excerpts of
25 the transcript of the Pretrial Conference proceedings in *Restore Robotics, LLC v. Intuitive*
26 *Surgical, Inc.*, No. 19-cv-00055 (N.D. Fla.), dated January 13, 2023.

1 10. Attached to this declaration as **Exhibit 9** is a true and correct copy of the Expert
2 Report of Dr. Russell L. Lamb dated December 2, 2022, which was previously filed on the
3 docket in this matter at Dkt. 230-04.

4 11. Attached to this declaration as **Exhibit 10** is a true and correct copy of the
5 Amended Complaint in *Coronavirus Reporter v. Apple, Inc.*, No. 21-cv-05567 (N.D. Cal.), Dkt.
6 41, dated September 6, 2021.

7 12. Attached to this declaration as **Exhibit 11** is a true and correct copy of SIS's
8 Responses to Intuitive's Second Set of Requests for Admission and Third Set of Interrogatories,
9 dated October 16, 2024.

10 I declare under the penalty of perjury under the laws of the United States that the
11 foregoing is true and correct.

12
13
14 Dated: October 28, 2024

By: /s/ Paul D. Brachman

15 PAUL D. BRACHMAN
16
17
18
19
20
21
22
23
24
25
26
27
28

FILER'S ATTESTATION

I, Kenneth A. Gallo, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatory identified above has concurred in this filing.

Dated: October 28, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

Kenneth A. Gallo (*pro hac vice*)
**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**
2001 K Street, NW
Washington, DC 20006-1047
Telephone: (202) 223-7300
Facsimile: (202) 223-7420
Email: kgallo@paulweiss.com

*Attorney for Defendant
Intuitive Surgical, Inc.*